

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:18-CV-00177-GCM**

DONNIE THOMPSON,

Plaintiff,

v.

ANDREW SAUL,

Defendant.

ORDER

THIS MATTER IS BEFORE THE COURT on the Plaintiff's Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) filed on April 20, 2020. The Commissioner has filed a Response in opposition and Plaintiff has filed a Reply.

The Commissioner objects solely to the number of hours expended on this matter by Plaintiff's counsel, contending that 64.39 hours is excessive. However, after reviewing the filings, supporting materials, and the case file, it appears to the Court that most of the hours expended that the Commissioner deems "excessive" are the direct result of the Commissioner failing to file a complete transcript initially. Moreover, the Court finds that despite the Commissioner's argument to the contrary, the two hours spent by Plaintiff's counsel reviewing and revising the briefs drafted by attorneys under his supervision is not excessive or unreasonable. The Commissioner also argues that the issues raised were not novel or complex, but much of the Plaintiff's brief raises RFC issues which are generally highly evidence specific and require copious citation to the medical records.

The Court finds that Plaintiff should be awarded an attorney's fee under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), in the amount of \$13,173.16.

IT IS ORDERED that the Plaintiff's Motion for Fees Under the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) is **GRANTED**, to the extent that the Court will award attorney fees in the amount of \$13,173.16, and that pursuant to *Comm'r of Soc. Sec. v. Ratliff*, 560 U.S. 586, 130 S. Ct. 2521 (2010), the fee award will first be subject to offset of any debt Plaintiff may owe to the United States. The Commissioner will determine whether Plaintiff owes a debt to the United States. If so, the debt will be satisfied first, and if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the United States Department of the Treasury reports to the Commissioner that the Plaintiff does not owe a federal debt, the government will exercise its discretion and honor an assignment of EAJA fees and pay the awarded fees directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

Signed: June 17, 2020

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

